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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,585	11/03/2000	Wolfgang Niehoff	635.324US01	6177

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EXAMINER

WOO, STELLA L

ART UNIT PAPER NUMBER

2643

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,585

Applicant(s)

NIEHOFF ET AL.

Examiner

Stella L. Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 12-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claim 12 was amended to recite “wherein the first position signal and the first audio signal are transmitted together.” However, Applicant’s disclosure does not describe transmitting both signals together. Applicant points to page 9, last paragraph through page 10, first paragraph and Figure 2 as providing support. However, pages 9 and 10 describe the microphone with a transmitter 34 which transmits a position signal, not both a position signal and audio signal together. On page 6, the third paragraph describes the microphone in which the transmitter which transmits the audio signal and the mobile transmitter which transmits the position signal can be combined in one functional unit. However, there is no description of transmitting the position and audio signal together.

In view of the above rejection under 35 USC 112, first paragraph, only the limitations supported by the original disclosure are being considered for examination with regards to rejection in view of prior art.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 12-14, 17-18, 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Dowling, Jr. et al. (US 2003/0222587 A1, hereinafter “Dowling”).

Regarding claims 12 and 20, Dowling discloses an installation (universal lighting system incorporating speakers; paragraph 68), comprising:

a first audio signal source with a first location (microphone receives audio input from a moving performer/actor; paragraph 61, lines 1-5);

a first locating device (microphone includes an emitter which sends communication signals to the processor 30 to indicate a detected audio signal at a tracked location; paragraphs 55, 61, 67, 68);

a control unit (processor 30 receives communication signals from the microphone to control speakers in an incorporated sound system; paragraph 68);

wherein an acoustic impression created by the sound irradiation system essentially corresponds to the first location (the smart lighting devices which include speakers, are interactively modulated in response to detected proximity of performers; paragraphs 67 and 68).

Regarding claims 13-14, 17-18, Dowling teaches the use of triangulation to pinpoint the location of a speaker (paragraph 62).

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Regarding claim 21, Dowling provides for tracking a plurality of performers (paragraph 61, lines 3-5).

5. Claim 22 is rejected under 35 U.S.C. 102(e) as being anticipated by Beason et al. (US 6,492,941, hereinafter "Beason").

Beason discloses a microphone (portable GPS/radio unit with microphone 24) comprising:

- an electronic transducer (microphone 24);
- a first locating device (GPS receiver 12);
- a transmitter (radio transceiver 16 transmits both voice signals and GPS data; col. 4, lines 26-38).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15-16, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling in view of Kail, IV (US 5,959,529, hereinafter "Kail").

Dowling differs from claims 15-16 and 19 in that it does not specify using high-frequency communication, transmitting in the GPS format or the locating device being in a portable compact appliance. However, Kail teaches the desirability of tracking a moving person by having the person carry or wear a portable compact unit and communicating location signals using high-frequency GPS signals as an alternative to triangulation devices (col. 2, lines 22-35)

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such that it would have been obvious to an artisan of ordinary skill to incorporate such use of a portable compact appliance as the locating unit and the use of high-frequency GPS signals for communicating position information, as taught by Kail, within the system of Dowling in order to more accurately track the position of a moving performer/actor.

Response to Arguments

8. Applicant's arguments with respect to claims 12-22 have been considered but are moot in view of the new grounds of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clise et al. (US 5,797,091) show another portable device which transmits audio and position data using one transmitter.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

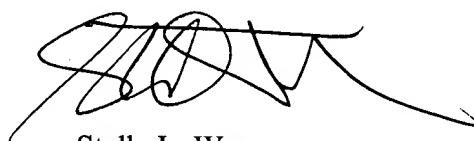
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-7512. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Stella L. Woo', with a long horizontal line extending to the right.

Stella L. Woo
Primary Examiner
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